

Senate File 382 - Introduced

SENATE FILE _____
BY McKINLEY

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act providing for the transfer of the administration of the
2 loan and credit guarantee program and including an effective
3 date.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
5 TLSB 2265XS 83
6 tw/rj/14

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1 1 DIVISION I
1 2 TRANSFER OF THE LOAN AND CREDIT GUARANTEE PROGRAM
1 3 Section 1. NEW SECTION. 16.141 SHORT TITLE.
1 4 This division shall be known and may be cited as the "Iowa
1 5 Loan and Credit Guarantee Fund Act".
1 6 Sec. 2. NEW SECTION. 16.142 LEGISLATIVE FINDINGS ==
1 7 PURPOSES.
1 8 1. The general assembly finds all of the following:
1 9 a. That the expansion of business activity in all
1 10 industries is important to the economic health and vitality of
1 11 Iowa and particularly to increased economic growth and job
1 12 creation, but that such expansion and growth is hampered
1 13 because many small and medium-sized businesses in many
1 14 industries are not able to qualify for conventional financing.
1 15 b. That the limited availability of credit for export
1 16 transactions limits the ability of small and medium-sized
1 17 businesses in this state to compete in international markets.
1 18 c. That, to enhance competitiveness and foster economic
1 19 development, this state must focus on growth in all industry
1 20 sectors.
1 21 d. That the challenge for the public economic sector is to
1 22 create an atmosphere conducive to economic growth, in
1 23 conjunction with financial institutions in the private sector,
1 24 which fill the gaps in credit availability and export finance,
1 25 and that allow the private sector to identify the lending
1 26 opportunities and foster decision making at the local level.
1 27 2. The general assembly declares the purposes of this
1 28 division to be all of the following:
1 29 a. To create incentives and assistance to increase the
1 30 flow of private capital to businesses in need of additional
1 31 financing.
1 32 b. To promote industrial modernization and technology
1 33 adoption.
1 34 c. To encourage the retention and creation of jobs.
1 35 d. To encourage the export of goods and services sold by
2 1 Iowa businesses in national and international markets.
2 2 Sec. 3. NEW SECTION. 16.143 DEFINITIONS.
2 3 As used in this division, unless the context otherwise
2 4 requires:
2 5 1. "Financial institution" means an institution listed in
2 6 section 422.61, or such other financial institution as defined
2 7 by the authority for purposes of this division.
2 8 2. "Program" means the loan and credit guarantee program
2 9 established in this division.
2 10 3. "Qualified business" means an existing or proposed
2 11 business entity with an annual average number of employees not
2 12 exceeding two hundred employees. "Qualified business" does
2 13 not include businesses engaged primarily in retail sales, real
2 14 estate, or the provision of health care or other professional
2 15 services.
2 16 Sec. 4. NEW SECTION. 16.144 LOAN AND CREDIT GUARANTEE
2 17 PROGRAM.

2 18 1. The authority shall establish and administer a loan and
2 19 credit guarantee program. The authority, pursuant to
2 20 agreements with financial institutions, shall provide loan and
2 21 credit guarantees, or other forms of credit guarantees for
2 22 qualified businesses for eligible project costs. The
2 23 authority may invest up to ten percent of the assets of the
2 24 loan and credit guarantee fund, or five hundred thousand
2 25 dollars, whichever is greater, to provide loan and credit
2 26 guarantees or other forms of credit guarantees for eligible
2 27 project costs to microenterprises located in a municipality
2 28 with a population under fifty thousand that is not contiguous
2 29 to a municipality with a population of fifty thousand or more.
2 30 For purposes of this division, "microenterprise" means a
2 31 business providing services with five or fewer full-time
2 32 equivalent employee positions. A loan or credit guarantee
2 33 provided under the program may stand alone or may be used in
2 34 conjunction with or to enhance other loans or credit

2 35 guarantees offered by private, state, or federal entities.
3 1 The authority may purchase insurance to cover defaulted loans
3 2 meeting the requirements of the program. However, the
3 3 authority shall not in any manner directly or indirectly
3 4 pledge the credit of the state. Eligible project costs
3 5 include expenditures for productive equipment and machinery,
3 6 working capital for operations and export transactions,
3 7 research and development, marketing, and such other costs as
3 8 the authority may so designate.

3 9 2. A loan or credit guarantee or other form of credit
3 10 guarantee provided under the program to a participating
3 11 financial institution for a single qualified business shall
3 12 not exceed one million dollars in value. Loan or credit
3 13 guarantees or other forms of credit guarantees provided under
3 14 the program to more than one participating financial
3 15 institution for a single qualified business shall not exceed
3 16 ten million dollars in value.

3 17 3. In administering the program, the authority shall
3 18 consult and cooperate with financial institutions in this
3 19 state. Administrative procedures and application procedures,
3 20 as practicable, shall be responsive to the needs of qualified
3 21 businesses and financial institutions, and shall be consistent
3 22 with prudent investment and lending practices and criteria.

3 23 4. Each participating financial institution shall identify
3 24 and underwrite potential lending opportunities with qualified
3 25 businesses. Upon a determination by a participating financial
3 26 institution that a qualified business meets the underwriting
3 27 standards of the financial institution, subject to the
3 28 approval of a loan or credit guarantee, the financial
3 29 institution shall submit the underwriting information and a
3 30 loan or credit guarantee application to the authority.

3 31 5. The authority shall adopt a loan or credit guarantee
3 32 application procedure for a financial institution on behalf of
3 33 a qualified business or microenterprise.

3 34 6. Upon approval of a loan or credit guarantee, the
3 35 authority shall enter into a loan or credit guarantee
4 1 agreement with the participating financial institution. The
4 2 agreement shall specify all of the following:
4 3 a. The fee to be charged to the financial institution.
4 4 b. The evidence of debt assurance of, and security for,
4 5 the loan or credit guarantee.
4 6 c. A loan or credit guarantee that does not exceed fifteen
4 7 years.
4 8 d. Any other terms and conditions considered necessary or
4 9 desirable by the authority.

4 10 7. The authority may adopt loan and credit guarantee
4 11 application procedures that allow a qualified business or
4 12 microenterprise to apply directly to the authority for a
4 13 preliminary guarantee commitment. A preliminary guarantee
4 14 commitment may be issued by the authority subject to the
4 15 qualified business or microenterprise securing a commitment
4 16 for financing from a financial institution. The application
4 17 procedures shall specify the process by which a financial
4 18 institution may obtain a final loan and credit guarantee.

4 19 Sec. 5. NEW SECTION. 16.145 TERMS == FEES.

4 20 1. When entering into a loan or credit guarantee
4 21 agreement, the authority shall establish fees and other terms
4 22 for participation in the program by qualified businesses.

4 23 2. The authority, with due regard for the possibility of
4 24 losses and administrative costs, shall set fees and other
4 25 terms at levels sufficient to assure that the program is
4 26 self-financing.

4 27 3. For a preliminary guarantee commitment, the authority
4 28 may charge a qualified business or microenterprise a

4 29 preliminary guarantee commitment fee. The application fee
4 30 shall be in addition to any other fees charged by the
4 31 authority under this section and shall not exceed one thousand
4 32 dollars for an application.

4 33 Sec. 6. NEW SECTION. 16.146 LOAN AND CREDIT GUARANTEE
4 34 FUND.

4 35 1. A loan and credit guarantee fund is created and
5 1 established as a separate and distinct fund in the state
5 2 treasury. Moneys in the fund shall only be used for purposes
5 3 provided in this section. The moneys in the fund are
5 4 appropriated to the authority to be used for all of the
5 5 following purposes:

5 6 a. Payment of claims pursuant to loan and credit guarantee
5 7 agreements entered into under this division.

5 8 b. Payment of administrative costs of the authority for
5 9 actual and necessary administrative expenses incurred by the
5 10 authority in administering the program.

5 11 c. Purchase or buyout of superior or prior liens,
5 12 mortgages, or security interests.

5 13 d. Purchase of insurance to cover the default of loans
5 14 made pursuant to the requirements of the loan and credit
5 15 guarantee program.

5 16 2. Moneys in the loan and credit guarantee fund shall
5 17 consist of all of the following:

5 18 a. Moneys appropriated by the general assembly for that
5 19 purpose and any other moneys available to and obtained or
5 20 accepted by the authority for placement in the fund.

5 21 b. Proceeds from collateral assigned to the authority,
5 22 fees for guarantees, gifts, and moneys from any grant made to
5 23 the fund by any federal agency.

5 24 3. Moneys in the fund are not subject to section 8.33.
5 25 Notwithstanding section 12C.7, interest or earnings on the
5 26 moneys in the fund shall be credited to the fund.

5 27 4. a. The authority shall only pledge moneys in the loan
5 28 and credit guarantee fund and not any other moneys of the
5 29 authority. In a fiscal year, the authority may pledge an
5 30 amount not to exceed the total amount appropriated to the fund
5 31 for the same fiscal year to assure the repayment of loan and
5 32 credit guarantees or other extensions of credit made to or on
5 33 behalf of qualified businesses for eligible project costs.

5 34 b. The authority shall not pledge the credit or taxing
5 35 power of this state or any political subdivision of this state
6 1 or make debts payable out of any moneys except for those in
6 2 the loan and credit guarantee fund.

6 3 Sec. 7. Sections 15E.221, 15E.222, 15E.223, 15E.224,
6 4 15E.225, and 15E.227, Code 2009, are repealed.

6 5 Sec. 8. FUND BALANCE TRANSFERS.

6 6 1. Notwithstanding any other provision of law to the
6 7 contrary, on July 1, 2009, the unencumbered and unobligated
6 8 balance of moneys in the loan and credit guarantee fund
6 9 established pursuant to section 15E.227 shall be transferred
6 10 to the loan and credit guarantee fund established pursuant to
6 11 section 16.146 as enacted in this Act.

6 12 2. If any moneys in the loan and credit guarantee fund
6 13 established pursuant to section 15E.227 are obligated or
6 14 encumbered at the close of the fiscal year ending June 30,
6 15 2009, but subsequently become unencumbered or otherwise cease
6 16 to be obligated, such moneys shall be transferred to the loan
6 17 and credit guarantee fund established pursuant to section
6 18 16.146 as enacted in this Act as soon as practicable.

6 19 Sec. 9. LOAN AND CREDIT GUARANTEE PROGRAM ADMINISTRATION.
6 20 The department of economic development and the Iowa finance
6 21 authority shall coordinate efforts to transfer administration
6 22 of the loan and credit guarantee program from the department
6 23 to the authority as soon as practicable.

6 24 DIVISION II

6 25 CONFORMING AMENDMENTS

6 26 Sec. 10. Section 15.103, subsection 6, Code 2009, is
6 27 amended to read as follows:

6 28 6. As part of the organizational structure of the
6 29 department, the board shall establish a due diligence
6 30 committee and a temporary loan and credit guarantee committee
6 31 composed of members of the board. The committees due
6 32 diligence committee shall serve in an advisory capacity to the
6 33 board and shall carry out any duties assigned by the board in
6 34 relation to programs administered by the department. The loan
6 35 and credit guarantee committee shall advise the board and the
7 1 Iowa finance authority on the transfer of the administration
7 2 of the loan and credit guarantee program from the department
7 3 to the authority.

7 4 Sec. 11. Section 15G.111, subsection 1, paragraph a,

7 5 subparagraphs (1) and (2), Code 2009, are amended to read as
7 6 follows:

7 7 (1) For each fiscal year of the fiscal period beginning
7 8 July 1, 2007, and ending June 30, 2009, to the department of
7 9 economic development thirty million dollars for the following
7 10 programs administered by the department:

7 11 (a) The targeted small business financial assistance
7 12 program established pursuant to section 15.247.

7 13 (b) The community economic betterment program established
7 14 pursuant to section 15.317.

7 15 (c) The entrepreneurial ventures assistance program
7 16 established pursuant to section 15.339.

7 17 (d) The value-added agricultural products and processes
7 18 financial assistance program established pursuant to section
7 19 15E.111.

7 20 (e) The physical infrastructure financial assistance
7 21 program established pursuant to section 15E.175.

~~7 22 (f) The loan and credit guarantee program established
7 23 pursuant to section 15E.224.~~

7 24 (2) For each fiscal year of the fiscal period beginning
7 25 July 1, 2009, and ending June 30, 2015, to the department of
7 26 economic development thirty-two million dollars for the
7 27 following programs administered by the department:

7 28 (a) The targeted small business financial assistance
7 29 program established pursuant to section 15.247.

7 30 (b) The community economic betterment program established
7 31 pursuant to section 15.317.

7 32 (c) The entrepreneurial ventures assistance program
7 33 established pursuant to section 15.339.

7 34 (d) The value-added agricultural products and processes
7 35 financial assistance program established pursuant to section
8 1 15E.111.

8 2 (e) The physical infrastructure financial assistance
8 3 program established pursuant to section 15E.175.

~~8 4 (f) The loan and credit guarantee program established
8 5 pursuant to section 15E.224.~~

8 6 Sec. 12. EFFECTIVE DATE. The section of this division of
8 7 this Act amending section 15.103, subsection 6, being deemed
8 8 of immediate importance, takes effect upon enactment.

8 9 EXPLANATION

8 10 This bill provides for the transfer of the administration
8 11 of the loan and credit guarantee program from the department
8 12 of economic development to the Iowa finance authority.

8 13 The bill repeals the existing sections of the Code
8 14 establishing the program, including its related fund, and
8 15 recreates the program within the Iowa finance authority. All
8 16 duties currently performed by the department in relation to
8 17 the program are to be performed by the authority. All moneys
8 18 in the existing loan and credit guarantee fund are transferred
8 19 to a new loan and credit guarantee fund under the control of
8 20 the authority.

8 21 The eligibility, operation, and administration of the
8 22 program remain unchanged with the following exceptions: (1)
8 23 all references to "targeted industry businesses" have been
8 24 removed from the program and the legislative findings language
8 25 is changed to reflect a focus on all qualified businesses
8 26 instead of a particular focus on certain targeted industries;
8 27 and (2) the program is no longer funded from the grow Iowa
8 28 values fund.

8 29 The bill directs the economic development board to
8 30 establish a temporary loan and credit guarantee committee
8 31 comprising members of the board to advise the department and
8 32 the authority on the transfer of the administration of the
8 33 program, and makes conforming amendments. The temporary
8 34 committee provision takes effect upon enactment.

8 35 LSB 2265XS 83

9 1 tw/rj/14